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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/892,847	06/28/2001	Masatoshi Ozawa	P20726	3090

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EXAMINER	
PARTON, KEVIN S	

ART UNIT	PAPER NUMBER
2153	

DATE MAILED: 08/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/892,847	OZAWA, MASATOSHI	
	Examiner	Art Unit	
	Kevin Parton	2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-9* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-9* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/01/2001*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Saito (USPN 6,658,247).

3. Regarding claim 5, Saito (USPN 6,658,247) teaches a system for receiving music data comprising:

a. A distribution request reception section that receives distribution information including a music number identifying the requested music data, a size of the music data and a starting block number of the music data, the music data being divided into a plurality of blocks (column 3, lines 46-48).

b. A music data reception section that receives the music data of a block unit after the distribution information is received (column 3, lines 49-51; column 5, lines 36-42).

c. A transmission section that transmits a confirmation signal after each block of the music data is normally received (column 7, lines 28-29; column 5, lines 36-42).

d. A control section that receives each block of the music data until reception of the music data is completed (column 3, lines 49-52; figure 4c, 4d).

e. A memory that stores the received music data (column 3, lines 49-51).

4. Regarding claim 6, Saito (USPN 6,658,247) teaches all the limitations as applied to claim 5. He further teaches means wherein the control section checks a size of the memory, the music number, and the starting block of the music data, when they are appropriate, the control section controls the music data reception section to receive the music data (column 5, lines 36-42). Note that the block number and memory amount are monitored before and during the download process.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bruck et al (USPN 6,691,165) in view of Douglis et al. (USPN 6,587,877).

7. Regarding claim 1, Bruck et al (USPN 6,691,165) teaches a system to distribute music data comprising:

a. Distribution request process section that receives a music number identifying the music data requested by a terminal (column 29, lines 1-2; column 1, lines 40-41).

b. A reading section that reads the music data from a contents server (column 29, lines 9-11).

c. The music data being divided into a number of blocks (column 29, lines 9-11). Note that all data, including music, is accepted in packets. The music can also be packaged as larger blocks.

d. A communication section that transmits each block of music data to the terminal (column 29, lines 9-13).

e. A block confirmation reception section that receives a confirmation notification transmitted from the terminal when the terminal receives each block of the music data normally (column 29, lines 24-25).

f. A control section that, when the confirmation notification is received, transmits the next block of the music data, and that, when the confirmation notification is not received within a predetermined time period, executes an error process (column 29, lines 24-35).

Although the system disclosed by Bruck et al (USPN 6,691,165) shows substantial features of the claimed invention, it fails to disclose:

a. A notification process section that notifies the terminal of the received music number, a size of the music data and a starting block number of the music data.

b. A reception process section that receives a response from the terminal after notification of the music number, the size of the music data and the starting block number of the music data.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Bruck et al (USPN 6,691,165), as evidenced by Douglis et al. (USPN 6,587,877).

In an analogous art, Douglis et al. (USPN 6,587,877) discloses a system for the incremental download of data comprising:

a. A notification process section that notifies the terminal of the received music number, a size of the music data and a starting block number of the music data (column 7, lines 55-61).

b. A reception process section that receives a response from the terminal after notification of the music number, the size of the music data and the starting block number of the music data (column 8, lines 37-42; column 9, lines 4-8).

Given the teaching of Douglis et al. (USPN 6,587,877), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bruck et al (USPN 6,691,165) by employing the notification of users of the size and nature of the data to be downloaded. This

benefits the system by allowing the user to decide if a very large download should be commenced or delayed to another time.

8. Regarding claim 2, Bruck et al (USPN 6,691,165) teach all the limitations as applied to claim 1. They further teach means wherein the error process includes judging one of at least inadequate memory size, disagreement between the music number in contents server and the music number requested by the terminal, and disagreement between the starting block of the content server and the starting block of the terminal (column 29, lines 24-26). Note that the lack of acknowledgement could be because of insufficient memory.

9. Regarding claim 3, Bruck et al (USPN 6,691,165) teach all the limitations as applied to claim 1. They further teach means wherein the control section resets the music number, the size of the music data and the starting block number to retransmit the music data when the reception process section does not receive the response from the terminal for a predetermined time period (column 29, lines 24-35).

10. Regarding claim 4, Bruck et al (USPN 6,691,165) teaches a system to distribute music data comprising:

a. Distribution request process section that receives a music number identifying the music data requested by a terminal (column 29, lines 1-2; column 1, lines 40-41).

b. A reading section that reads the music data from a contents server (column 29, lines 9-11).

c. The music data being divided into a number of blocks (column 29, lines 9-11). Note that all data, including music, is accepted in packets. The music can also be packaged as larger blocks.

d. A communication section that transmits each block of music data to the terminal (column 29, lines 9-13).

e. A block confirmation reception section that receives a confirmation notification transmitted from the terminal when the terminal receives each block of the music data normally (column 29, lines 24-25).

f. A control section that, when the confirmation notification is received, transmits the next block of the music data, and that, when the confirmation notification is not received within a predetermined time period, stores the starting block and the music number for retransmission to the terminal, and executes retransmission of the music data (column 29, lines 24-35).

Although the system disclosed by Bruck et al (USPN 6,691,165) shows substantial features of the claimed invention, it fails to disclose:

a. A notification process section that notifies the terminal of the received music number, a size of the music data and a starting block number of the music data.

b. A reception process section that receives a response from the terminal after notification of the music number, the size of the music data and the starting block number of the music data.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Bruck et al (USPN 6,691,165), as evidenced by Douglis et al. (USPN 6,587,877).

In an analogous art, Douglis et al. (USPN 6,587,877) discloses a system for the incremental download of data comprising:

a. A notification process section that notifies the terminal of the received music number, a size of the music data and a starting block number of the music data (column 7, lines 55-61).

b. A reception process section that receives a response from the terminal after notification of the music number, the size of the music data and the starting block number of the music data (column 8, lines 37-42; column 9, lines 4-8).

Given the teaching of Douglis et al. (USPN 6,587,877), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Bruck et al (USPN 6,691,165) by employing the notification of users of the size and nature of the data to be downloaded. This benefits the system by allowing the user to decide if a very large download should be commenced or delayed to another time.

11. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Douglis et al. (USPN 6,587,877) in view of Bruck et al (USPN 6,691,165).

12. Regarding claim 7, Douglis et al. (USPN 6,587,877) teaches a distribution system comprising:

a. A distribution server that stores a plurality of data (figure 1).

b. A reception terminal connected to the distribution server, the reception terminal receiving the data transmitted from the distribution server (figure 1, element 32).

c. Wherein the distribution server notifies the reception terminal of a number identifying the data, a size of the data and a starting block number of the data, the data being divided into a plurality of block units (column 7, lines 56-61; column 8, lines 36-42; column 9, lines 4-8).

d. Wherein the reception terminal responds to the distribution server after the reception terminal confirms the number, the size of the data and the starting block number (column 9, lines 4-8).

e. Wherein the distribution server sequentially transmits the data in block units to the reception terminal when the distribution server receives the response from the reception terminal (column 9, lines 4-8).

Although the system disclosed by Douglis et al. (USPN 6,587,877) shows substantial features of the claimed invention, it fails to disclose specifically that the data is music data.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Douglis et al. (USPN 6,587,877), as evidenced by Bruck et al (USPN 6,691,165).

In an analogous art, Bruck et al (USPN 6,691,165) discloses a system for the incremental downloading of music data (column 29, lines 24-35; column 1, lines 40-41).

Given the teaching of Bruck et al (USPN 6,691,165), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Douglis et al. (USPN 6,587,877) by employing the downloading of music in blocks. Music data is usually large so the system would benefit by not having to restart interrupted downloads from the beginning of the data file. This speeds overall download.

13. Regarding claim 8, although the system disclosed by Douglis et al. (USPN 6,587,877) (as applied to claim 7) shows substantial features of the claimed invention, it fails to disclose means wherein when the reception terminal cannot receive the music data because of a shortage in the remaining amount of memory, the reception terminal notifies the distribution server of a reason for the non reception.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Douglis et al. (USPN 6,587,877).

A person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Douglis et al. (USPN 6,587,877) by employing the use of a notification if insufficient memory exists. This benefits the system by not only stopping the current download but stopping the sending of

data for the time while it cannot be received thus relieving the system of wasted traffic.

14. Regarding claim 9, Douglis et al. (USPN 6,587,877) teaches all the limitations as applied to claim 7. They further teach means wherein when the transmission of the data is suspended in a middle of the data and the distribution server retransmits the data to the reception terminal, the distribution server notifies the reception terminal of the starting block number for retransmission and the reception terminal confirms the starting block number to receive the data (column 7, lines 56-61; column 8, lines 36-42; column 9, lines 4-8). Note that the system sends data in blocks and the receiver knows which block should come next.

Although the system disclosed by Douglis et al. (USPN 6,587,877) shows substantial features of the claimed invention, it fails to disclose specifically that the data is music data.

Nonetheless, these features are well known in the art and it would have been an obvious modification of the system disclosed by Douglis et al. (USPN 6,587,877), as evidenced by Bruck et al (USPN 6,691,165).

In an analogous art, Bruck et al (USPN 6,691,165) discloses a system for the incremental downloading of music data (column 29, lines 24-35; column 1, lines 40-41).

Given the teaching of Bruck et al (USPN 6,691,165), a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Douglis et al. (USPN 6,587,877) by employing the

downloading of music in blocks. Music data is usually large so the system would benefit by not having to restart interrupted downloads from the beginning of the data file. This speeds overall download.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Parton whose telephone number is (703)306-0543. The examiner can normally be reached on M-F 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (703)305-4792. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Kevin Parton
Examiner
Art Unit 2153

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